

Message Text

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C O N F I D E N T I A L STATE 008454

E.O. 11652:GDS

TAGS: EGEN, ECOSOC, EINV

SUBJECT: IGWG ON CORRUPT PRACTICES - SECOND SESSION

REF: (A) USUN NY 5477, (B) STATE 104346 (C) STATE 179170,
(D) STATE 196622

1. THE ECOSOC AD HOC INTERGOVERNMENTAL WORKING GROUP ON
CORRUPT PRACTICES WILL HOLD ITS FIRST SUBSTANTIVE MEETING
JANUARY 31 TO FEBRUARY 11, 1977. ONE MORE MEETING IS
SCHEDULED FOR MARCH 28 TO APRIL 8, 1977. THE GROUP IS
DIRECTED TO STUDY CORRUPT PRACTICES AND TO ELABORATE THE
SCOPE AND CONTENTS OF A TREATY ON ILLICIT PAYMENTS. IT IS
TO MAKE ITS REPORT TO ECOSOC AT ITS MEETING THIS SUMMER.

2. MEXICO HAS ALWAYS BEEN COOL TO THIS EXERCISE, OSTENSI-
BLY BECAUSE IT FEARS COMPETITION WITH UN WORK ON CODE OF
CONDUCT FOR TNC'S. AT FIRST MEETING OF WORKING GROUP IN
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NOVEMBER 1976, MEXDEL DECLINED TO AGREE TO AGENDA PROPOSED
BY SECRETARIAT WHICH CONFORMED TO MANDATE ESTABLISHED BY
ECOSOC AND WAS WIDELY ACCEPTABLE TO DELEGATIONS. THIS
TACTIC, WHICH APPEARED AS EFFORT TO OBSTRUCT SUBSTANTIVE
WORK, WAS SUPPORTED BY NIGERIA AND UGANDA BUT NOT BY OTHER
LDC'S SUCH AS COLOMBIA AND IRAN. AFTER MUCH EFFORT AND
WASTED TIME, WORKING GROUP FINALLY DID AGREE ON AGENDA FOR

NEXT MEETING.

3. MEXICO IS IN POSITION TO PLAY KEY ROLE IN FUTURE WORK ON THIS MATTER. IT WOULD BE MOST HELPFUL TO HAVE GOM'S COOPERATION AND IT MAY BE ESSENTIAL AT A MINIMUM TO ACHIEVE ITS NEUTRALITY IF WE ARE TO MAKE PROGRESS ON US PROPOSAL FOR TREATY ON ILLICIT PAYMENTS. CHANGE OF ADMINISTRATION IN MEXICO MAY PROVIDE OPPORTUNITY FOR RECONSIDERATION OF MEXICO'S BASIC STANCE ON THIS ISSUE. WE HOPE GOM WILL WISH TO COOPERATE MORE CLOSELY WITH USG ON MULTILATERAL ISSUES AND POSSIBLY IT MAY REASSESS ITS INTERESTS WITH RESPECT TO GENERAL PROBLEM OF CORRUPTION.

4. ACCORDINGLY, DEPARTMENT REQUESTS AMBASSADOR SEEK APPOINTMENT WITH HIGHEST APPROPRIATE POLITICAL OFFICIAL IN NEW GOVERNMENT TO SEEK GOM'S COOPERATION ON THIS ISSUE. SUGGEST YOU BRIEF HIM ON MEETING SCHEDULED FOR JANUARY 31 AND ON BACKGROUND OF US PROPOSAL FOR AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS, DRAWING ON REF'S B,C AND D IN DESCRIBING STANCE TAKEN BY MEXDEL AT NOVEMBER MEETING YOU MAY EXPRESS USG CONCERN THAT OUR TWO COUNTRIES SHOULD BE AT ODDS IN A MULTILATERAL FORUM ON AN ISSUE WHERE WE SHOULD BE ABLE TO FIND COMMON GROUND BASED ON OUR RESPECTIVE NATIONAL INTERESTS. YOU MAY INDICATE THAT USG UNDERSTANDS THAT PROBLEM OF ILLICIT PAYMENTS RAISES DELICATE QUESTIONS REQUIRING CAREFUL CONSIDERATION BY ALL COUNTRIES AND ASSURE HIM THAT USG WISHES TO TAKE GOM'S VIEWS FULLY INTO ACCOUNT IN FORMULATING ITS PROPOSALS SO AS TO AVOID TO THE GREATEST EXTENT POSSIBLE CAUSING ANY PROBLEMS FOR GOM IN THESE DIFFICULT DAYS. ON THE OTHER HAND, WE HAVE NOT

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HAD ANY CLEAR INDICATION OF MEXICO'S REAL CONCERNS WITH US PROPOSAL AND ARE UNCERTAIN WHETHER GOM'S RESERVATIONS ARE BASED ON QUESTIONS OF NATIONAL OR INTERNATIONAL POLICY. WE WOULD HOPE TO BE ABLE TO DEVELOP PROPOSALS THAT MEXICO COULD SUPPORT. AT A MINIMUM, WE WOULD WISH TO AVOID PUBLIC DISPUTES WITH GOM OVER AN ISSUE OF THIS CHARACTER. YOU MAY ASK IF GOM HAS DECIDED ON ITS REPRESENTATION FOR THE SECOND SESSION OF THE WORKING GROUP AND WHETHER IT HAS FORMULATED A POSITION FOR THAT MEETING. YOU MAY ALSO INDICATE THAT THE USG WOULD BE PLEASED TO CONSULT FULLY WITH THE GOM ON ITS PROGRAMS AND POLICIES WITH RESPECT TO ILLICIT PAYMENTS AND WOULD BE PLEASED TO RECEIVE A DELEGATION IN WASHINGTON FOR THAT PURPOSE NEXT WEEK OR EN ROUTE TO NEW YORK AT THE END OF THE MONTH. IF SUCH CONSULTATIONS ARE NOT PRACTICABLE, USG WOULD HOPE THAT MEXDEL COULD BE INSTRUCTED TO CONSULT AND WORK CLOSELY WITH THE US DELEGATION AT THE JULY 31 MEETING. IF IN THE FINAL ANALYSIS MEXICO CANNOT SUPPORT THE US, WE WOULD HOPE IT WOULD MAINTAIN A NEUTRAL POSITION AND NOT RAISE

PROCEDURAL OBSTACLES TO THE SUBSTANTIVE WORK OF THE WORKING GROUP.

5. THE U.S. IDEAS ON A TREATY WERE CIRCULATED INFORMALLY AT THE NOVEMBER MEETING. THEY INCLUDED THE FOLLOWING ELEMENTS:

1. ENFORCEMENT OF THE BRIBERY LAWS OF HOST (AND IMPORTING) COUNTRIES;

2. COOPERATION BY ALL CONTRACTING STATES IN THE INVESTIGATION AND PROSECUTION OF OFFENDERS INCLUDING THE EXCHANGE OF RELEVANT INFORMATION BY THE LAW ENFORCEMENT AUTHORITIES OF THE CONTRACTING STATES;

3. UNIFORM DISCLOSURE LEGISLATION BY ALL CONTRACTING STATES AS PRESCRIBED BY THE TREATY. UNDER THIS LEGIS-

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LATION, ENTERPRISES WOULD BE REQUIRED TO REPORT AGENTS' FEES AND OTHER PAYMENTS MADE TO PUBLIC OFFICIALS OR TO INTERMEDIARIES TO SECURE AN INTERNATIONAL COMMERCIAL TRANSACTION WITH A GOVERNMENT AGENCY OR TO INFLUENCE THE PERFORMANCE OF AN OFFICIAL ACT, REGARDLESS OF THE LEGALITY OR THE PROPRIETY OF THE PAYMENT. THESE REPORTS WOULD BE MADE TO BOTH HOME AND HOST GOVERNMENTS AND WOULD BE AVAILABLE TO THE PUBLIC. FALSE REPORTING OR FAILURE TO REPORT WOULD BE PUNISHED UNDER THE CRIMINAL LAWS OF THE CONTRACTING STATES. TO AVOID BURDENSOME ADMINISTRATION, NO REPORTS WOULD BE REQUIRED IN RESPECT OF SMALL INTERNATIONAL TRANSACTIONS OR OF SMALL PAYMENTS.
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